



Nevada State Board of Medical Examiners

*** MINUTES ***

OPEN SESSION

TELEPHONE CONFERENCE CALL BOARD MEETING

Held in the Conference Room at the Offices of the
Nevada State Board of Medical Examiners
1105 Terminal Way, Suite 301, Reno, NV 89502

and teleconferenced to:

the conference room of the Nevada State Board of Dental Examiners
6010 S. Rainbow Boulevard, Building A, Suite 1, Las Vegas, Nevada 89118

FRIDAY, SEPTEMBER 18, 2009 – 11:00 A.M.

Board Members Present at Medical Examiners Board Office

Charles N. Held, M.D., President
Jean Stoess, M.A.

Board Members Present by Telephone

Renee West, Secretary-Treasurer
Benjamin J. Rodriguez, M.D., Vice President
Javaid Anwar, M.D.
Van V. Heffner
Michael J. Fischer, M.D.

Board Members Absent/Not Participating

Beverly A. Neyland, M.D.
Theodore B. Berndt, M.D.

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Staff Present at Medical Examiners Board Office

Louis Ling, J.D., Executive Director
Edward O. Cousineau, J.D., General Counsel
Douglas C. Cooper, CMBI, Chief of Investigations
Pamela J. Castagnola, CMBI, Deputy Chief of Investigations
Monica C. Gustafson, Investigator
Samantha M. Hendricks, Investigations Coordinator
Angelia L. Donohoe, Legal Assistant

Also Present by Telephone

Christine M. Guerci-Nyhus, Esq., Chief Deputy Attorney General

Agenda Item 1

CALL TO ORDER AND ANNOUNCEMENTS

- Roll Call/Quorum
- Charles N. Held, M.D., President

The AT&T telephone conference call operator took roll call, and the meeting was called to order at 11:15 am by President Charles N. Held, M.D.

Dr. Held stated there was a quorum present and that the meeting was being recorded by a court reporter. He then requested that everyone identify themselves before speaking and asked that the microphone in Las Vegas remain muted until the time for public comment.

Agenda Item 2

**DISCUSSION, DELIBERATION, AND ACTION REGARDING AN EMERGENCY
REGULATION PURSUANT TO NRS 233B.0163 RELATED TO THE REGULATION OF
MEDICAL ASSISTANTS**

- Louis Ling, J.D., Executive Director

Mr. Ling acknowledged the work done by the Governor's Office and the Attorney General's Office, as well as the efforts of Mr. Cooper and Ms. Donohoe in getting the proposed regulation before the Board that day.

Mr. Ling then explained the reason for the meeting. He stated that prior to any press coverage on the subject, the Board had already authorized its staff to draft regulations to address the issue raised by the fact that two statutes, NRS 453.375 and 454.213, contain lists of those who have been authorized by the Legislature to administer prescription drugs and controlled substances, and the lists do not include medical assistants. That process had already begun. The press coverage caused confusion among medical practitioners as to what procedures medical assistants could perform, which was causing statewide disruption in patient care. As a result, the Governor's Office requested the Board to begin these proceedings.

Mr. Ling explained that if the proposed emergency regulation were passed that day, it would become effective that day when filed with the Secretary of State's Office, and would remain effective for 120 days. The Board would then work to get a permanent regulation in place. He described the regulatory process that would be followed in order to pass a permanent regulation.

Mr. Ling then explained that the intent of the emergency regulation was to codify the good practices that physicians and medical assistants have been engaged in for decades in the state and to clarify the language in the existing regulations. The intent was to plainly state that medical assistants assist physicians. They do not work independently of physicians or have any power or authority independent of physicians. Physicians are the ones who assess the patient, determine whether there is a medical procedure necessary and make treatment plans, all before the medical assistant is involved in the process. The medical assistant's job is to assist the physician in executing the plan. The regulation will clarify that with respect to administration of prescription medications, the physician can do the administration himself or herself, he or she can direct or allow any of those on the lists in those two statutes previously mentioned to administer the medication, or he or she can direct a medical assistant to administer the medication. This means a physician directs a medical assistant to administer medication is in fact administering the medication himself or herself.

Mr. Ling then outlined the language of the proposed emergency regulation, section by section.

Discussion ensued by the Board Members regarding the language of the proposed emergency regulation.

Dr. Rodriguez stated he was present at the meeting to listen and to provide information, but that he would recuse himself from voting on the proposed emergency regulation.

Discussion ensued concerning how Nevada's regulatory scheme regarding medical assistants compare to those of other states.

The Board heard comments from nine members of the public regarding the text of the emergency regulation and potential issues raised by the language.

Ms. West left the meeting at 11:48 a.m.

Deliberation by the Board Members ensued.

Dr. Held moved that the Board accept the regulation as written with the exception of section 2(b), perform or provide any invasive procedure or injection on a patient, with the exclusion of vaccinations, that the physician or physician assistant be in close proximity, defined as a response time of 15 minutes, when the medical assistant provides a service. Mr. Heffner seconded the motion.

Mr. Ling expressed concern that the time period of 15 minutes may be too long in some instances, and Dr. Held amended his motion to state the response time would be 5 minutes. Mr. Heffner seconded the amended motion.

Discussion ensued concerning whether topical, non-invasive procedures would be prohibited under the regulation.

A vote was taken on the motion, and it passed, with Dr. Anwar, Mr. Heffner, Dr. Fischer, Ms. Stoess and Dr. Held voting in favor of the motion and Dr. Rodriguez abstaining from the vote.

Mr. Ling stated he would make the required revisions to the emergency regulation and present the revised language to the Governor's Office. Assuming the Governor approved it, he would sign it and it would then be filed with the Secretary of State's Office.

Agenda Item 3

PUBLIC COMMENT

Public Comment was again taken following the vote on Agenda Item 2. At that time, Jacob Hafter, Esq. questioned the fact that the Board did not hear all public comment prior to voting on the passage of the regulation. Ms. Guerci-Nyhus stated that there is no law or regulation that requires public comment be taken before voting on an item. Additional public comment was then received from two other individuals.

ADJOURNMENT

Ms. Stoess moved to adjourn the meeting. Dr. Fischer seconded the motion, and it passed. The meeting was adjourned at 12:47 p.m.

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